

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

STATE OF SOUTH CAROLINA,)	Civil Action No. 1:19-cv-03132-RMG
SOUTH CAROLINA DEPARTMENT)	
OF HEALTH & ENVIRONMENTAL)	
CONTROL, and)	
SAVANNAH RIVER MARITIME)	
COMMISSION,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
UNITED STATES ARMY CORPS)	
OF ENGINEERS,)	
UNITED STATES ARMY CORPS OF)	
ENGINEERS SAVANNAH DISTRICT,)	
RYAN McCARTHY, in his official)	
capacity as Secretary of the Army,)	
LT. GENERAL TODD T. SEMONITE, in his)	
official capacity as Commanding General and)	
Chief of Engineers, U.S. Army Corps of Engineers,)	
MAJOR GENERAL DIANA M. HOLLAND,)	
in her official capacity as Commanding General,)	
South Atlantic Division, U.S. Army Corps of)	
Engineers, and)	
COLONEL DANIEL H. HIBNER,)	
in his official capacity as District Engineer,)	
U.S. Army Corps of Engineers, Savannah District,)	
)	
Defendants.)	

**CONSENT MOTION TO EXTEND TIME TO ANSWER OR OTHERWISE RESPOND
TO PLAINTIFFS' COMPLAINT AND
MOTION FOR PARTIAL SUMMARY JUDGMENT**

The Federal Defendants, pursuant to Rule 6.01 and 12.01 of the Local Rules of the District of South Carolina, move this Court for a 37-day extension of the January 7, 2020, deadline for Federal Defendants to answer or otherwise respond to Plaintiffs' Complaint (ECF

No. 1), through and including February 13, 2020. The Federal Defendants make this motion for additional time to prepare their response to Plaintiffs' Complaint after discussion with counsel for Plaintiffs, who filed a Motion for Partial Summary Judgment on December 20, 2019 (ECF No. 12).

1. Plaintiffs served their Complaint upon the United States Attorney for the District for South Carolina on November 8, 2019, and Federal Defendants' response is due on January 7, 2020. The Complaint alleges six causes of action in 54 pages and attaches 20 exhibits. Federal Defendants request additional time to review the claims in the Complaint along with the exhibits and prepare Federal Defendants' response.

2. Plaintiffs filed a Motion for Partial Summary Judgment on December 20, 2019. Federal Defendants also request that the Court extend the time for Federal Defendants to respond to the Motion for Partial Summary Judgment until February 13, 2020.

3. Extending the time to respond to the Complaint and the Motion for Partial Summary Judgment will result in a more efficient use of resources, as it potentially will allow Federal Defendants to answer or respond initially in one pleading.

4. If the Court were to allow the extension of time to allow Federal Defendants to answer or otherwise respond to the Complaint and Plaintiffs' Motion for Partial Summary Judgment to February 13, 2020, Plaintiffs and Federal Defendants request an extended briefing schedule in light of the complexity of the issues in the case. The parties have tentatively agreed and request that Plaintiffs' reply and/or response in opposition to any cross motion by Federal Defendants not be due before March 6, 2020; and that any reply by Federal Defendants not be due before March 27, 2020.

5. Further, Plaintiffs have agreed that under Fed. R. Civ. P. 12(a)(4), Federal Defendants will have 14 days to file an Answer after the Court rules upon any dispositive motions, including dismissal and summary judgment motions, should any issues remain undecided.

6. Based on the foregoing, Federal Defendants respectfully request that this Court grant them a 37-day extension of time to answer or otherwise respond to the Complaint, through and including February 13, 2020. Federal Defendants further request that the Court enter an extended briefing schedule on the Plaintiff's Motion for Partial Summary Judgment in accordance with the times requested herein.

7. Federal Defendants have not previously requested or received any prior extensions to answer or respond to the Complaint, and there currently is no scheduling order in place, so the requested extension would not affect other deadlines.

8. Counsel for Federal Defendants conferred with counsel for Plaintiffs on December 11, 12, and 18, 2019, who authorized counsel for Federal Defendants to state that Plaintiffs agree to the relief requested herein.

WHEREFORE, Federal Defendants request that this Court grant this motion for a 37-day extension of time to February 13, 2020, to answer or otherwise respond to the Complaint, and also grant the motion for an extended briefing schedule.

Respectfully submitted this 23rd day of December, 2019.

Respectfully submitted,

A. LANCE CRICK
UNITED STATES ATTORNEY

By: s/Beth Drake

Beth Drake (#5598)
Assistant United States Attorney
1441 Main Street, Suite 500
Columbia, SC 29201
Phone: (803) 929-3061
Email: Beth.Drake@usdoj.gov

SALLY J. SULLIVAN (DC Bar No.
1021930)
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources Division
Natural Resources Section
4 Constitution Square
150 M Street NE
Washington, DC 20002
Tel: (202) 514-9269
Fax: (202) 305-0506
Email: sally.sullivan@usdoj.gov

LESLIE M. HILL (D.C. Bar No. 476008)
U.S. Department of Justice
Environment & Natural Resources Division
Environmental Defense Section
4 Constitution Square
150 M St. NE
Suite 4.149
Washington, DC 20002
Tel: (202) 514-0375
Fax: (202) 514-8865
Email: Leslie.Hill@usdoj.gov

Attorneys for Federal Defendants